



**STATE OF WISCONSIN
JOINT LEGISLATIVE COUNCIL**

REPORT NO. 11 TO THE 1999 LEGISLATURE

LEGISLATION ON THE HISTORIC BUILDING CODE

1999 SENATE BILL 261,

Relating to Exempting Certain Barns and
Agricultural Outbuildings From Property
Taxation and Providing a Penalty

1999 SENATE JOINT
RESOLUTION 23,

Relating to Memorializing the U.S. Congress
to Provide Funding for Research on Recycled
Lumber by the Forest Products Laboratory of
the U.S. Department of Agriculture Forest
Service

Legislative Council Staff
October 22, 1999

One East Main Street, Suite 401
Madison, Wisconsin

RL 99-11

JOINT LEGISLATIVE COUNCIL
REPORT NO. 11 TO THE 1999 LEGISLATURE*

LEGISLATION ON THE HISTORIC BUILDING CODE

CONTENTS

	<u>Page</u>
<u>PART I:</u> KEY PROVISIONS OF LEGISLATION; COMMITTEE AND JOINT LEGISLATIVE COUNCIL VOTES	3
A. 1999 Senate Bill 261	3
B. 1999 Senate Joint Resolution 23	3
<u>PART II:</u> COMMITTEE ACTIVITY	5
A. Assignment	5
B. Summary of Meetings	5
C. Staff Materials and Other Materials	7
<u>PART III:</u> BACKGROUND; DESCRIPTION OF BILLS	9
A. 1999 Senate Bill 261	9
B. 1999 Senate Joint Resolution 23	11
<u>APPENDIX 1:</u> LIST OF JOINT LEGISLATIVE COUNCIL MEMBERS	13
<u>APPENDIX 2:</u> LIST OF COMMITTEE MEMBERS	15
<u>APPENDIX 3:</u> COMMITTEE MATERIALS	17

* This Report was prepared by Mark C. Patronsky, Senior Staff Attorney, and Anne Sappenfield, Staff Attorney, Legislative Council Staff.

PART I

**KEY PROVISIONS OF LEGISLATION; COMMITTEE
AND JOINT LEGISLATIVE COUNCIL VOTES**

**A. 1999 SENATE BILL 261, RELATING TO EXEMPTING CERTAIN BARNs AND
AGRICULTURAL OUTBUILDINGS FROM PROPERTY TAXATION AND PROVIDING A
PENALTY**

Senate Bill 261 creates a property tax exemption for certain barns and agricultural outbuildings that meet criteria for age and use established in the bill. The owner must request the exemption.

- **Votes**

By a May 19, 1999 mail ballot, the Special Committee on the Historic Building Code voted to recommend LRB-3132/1 to the Joint Legislative Council for introduction in the 1999-2000 Session of the Legislature. The motion to approve LRB-3132/1 passed by a vote of Ayes, 17 (Sens. Rude and Burke; Reps. Freese, Young, Owens, Plale and Reynolds; and Public Members Aulik, Boldt, Cameron, Huelsman, Lemke, Mackenzie-Smith, Pionke, Reed, Schute and Vos); and Noes, 2 (Bullermann and Meyer).

At its September 22, 1999 meeting, the Joint Legislative Council voted to introduce 1999 Senate Bill 261 (LRB-3132/2) by a vote of Ayes, 15 (Sens. Risser, Burke, Ellis, Erpenbach, Grobschmidt, Rosenzweig and Zien; and Reps. Kelso, Bock, Freese, Huber, Jensen, Schneider, Seratti and Stone); Noes, 5 (Sens. Chvala and Cowles; and Reps. Foti, Gard and Krug); and Absent, 2 (Sens. George and Robson).

**B. SENATE JOINT RESOLUTION 23, RELATING TO MEMORIALIZING THE U.S.
CONGRESS TO PROVIDE FUNDING FOR RESEARCH ON RECYCLED LUMBER BY
THE FOREST PRODUCTS LABORATORY OF THE U.S. DEPARTMENT OF
AGRICULTURE FOREST SERVICE**

Senate Joint Resolution 23 memorializes the U.S. Congress to fund research on recycled lumber by the Forest Products Laboratory in Madison, for the purpose of developing data to support the development of grading standards for used lumber.

- **Votes**

By a May 19, 1999 mail ballot, the Special Committee on the Historic Building Code voted to recommend LRB-3153/1 to the Joint Legislative Council for introduction in the 1999-2000 Session of the Legislature. The motion to approve LRB-3153/1 passed by a vote of Ayes, 19 (Sens. Rude and Burke; Reps. Freese, Young, Owens, Plale and Reynolds; and Public

Members Aulik, Boldt, Bullermann, Cameron, Huelsman, Lemke, Mackenzie-Smith, Meyer, Pionke, Reed, Schute and Vos); and Noes, 0.

At its September 22, 1999 meeting, the Joint Legislative Council voted to introduce 1999 Senate Joint Resolution 23 (LRB-3153/1) by a vote of Ayes, 19 (Sens. Risser, Burke, Chvala, Cowles, Ellis, Erpenbach, Grobschmidt, Rosenzweig and Zien; and Reps. Kelso, Bock, Freese, Gard, Huber, Jensen, Krug, Schneider, Seratti and Stone); Noes, 1 (Rep. Foti); and Absent, 2 (Sens. George and Robson).

PART II

COMMITTEE ACTIVITY

A. ASSIGNMENT

The Joint Legislative Council established the Special Committee on the Historic Building Code and appointed its chairperson by a June 24, 1998 mail ballot. The Joint Legislative Council directed the Special Committee to study: (1) the Wisconsin Historic Building Code and its administration to ensure that the code effectively facilitates practical, cost-effective and safe historic rehabilitation projects; and (2) related issues.

The members of the Special Committee were appointed by an August 21, 1998 mail ballot. The membership of the Special Committee consisted of two Senators, five Representative and 12 public members.

A membership list of the Joint Legislative Council is included as **Appendix 1**. A list of the members of the Special Committee is included as **Appendix 2**.

B. SUMMARY OF MEETINGS

The Special Committee held four meetings at the State Capitol in Madison on the following dates:

October 27, 1998
December 2, 1998
January 13, 1999
March 30, 1999

At the October 27, 1998 meeting, the Special Committee heard presentations by five invited speakers and engaged in a brief discussion of the substance of its assignment.

Ron Buchholz, Deputy Administrator, Division of Safety and Buildings, Commerce, described the history of legislation and regulations regarding building safety. He noted that the Historic Building Code was adopted in 1986 as an alternative to the variance process as a means of approving plans for historic buildings. He also noted that the Historic Building Code applies only to preservation or restoration of historic buildings that are public buildings or places of employment. The Historic Building Code does not apply to one- and two-family dwellings.

Jim Sewell, Senior Preservation Architect, Division of Historic Preservation, State Historical Society, Madison, described the benefits that accrue from using the Historic Building Code. He made a number of suggestions for possible improvements to the Historic Building Code.

Andy Weber, Miller Architectural Group, Milwaukee, discussed his personal experience with using the Historic Building Code and said that the code had served him well in the projects that he has completed. In particular, he noted that the point system in the Historic Building Code provides the flexibility necessary to complete projects.

Katherine Rankin, Preservation Planner, City of Madison, said that the potential complexity of using the Historic Building Code may discourage some property owners from using the code. She also suggested that many people may not be aware that the Historic Building Code exists.

Jim Mann, National Trust for Historic Preservation, Chicago, discussed some of the national efforts that are underway to develop new uniform building codes. He said that these efforts thus far have not included comprehensive provisions regarding historic buildings.

At the December 2, 1998 meeting, the Special Committee heard a presentation by Peter Godfrey, Architect and Building Recycler, Milwaukee, and Pete Gaitan, Architectural Antiques and Salvage, Grayslake, Illinois. They are in the business of removing building materials from buildings that are slated for demolition. They spoke of the advantages of recycling this material rather than disposing of it in a landfill. They noted the low cost of disposal in landfills and the resulting lack of a significant incentive to recycle these materials, even though there is a domestic and international market for old building materials. They engaged in a discussion with Special Committee members regarding possible ways the state could encourage people to use recycled building materials. The Committee concluded the meeting with a discussion of issues in Memo No. 1, *Proposals to Enhance the Historic Building Code Which Could be Considered by the Special Committee* (November 18, 1998).

At the January 13, 1999 meeting, the Special Committee heard a presentation by Chuck Law, Community Planning and Design Specialist and Advisor to the Wisconsin Barn Preservation Initiative, University of Wisconsin-Extension. Mr. Law described his responsibilities at University of Wisconsin-Extension related to rural preservation, including the preservation of rural structures, such as barns. He described the current barn initiative which is an ongoing effort focused on rural preservation. The Special Committee members discussed a variety of alternatives that could assist in the preservation of rural historic resources. The Committee also heard a presentation from Commerce staff regarding regulatory issues related to the ADA and the Fair Housing Act, with emphasis on how those regulations relate to the Historic Building Code and the differences between the federal and state laws. The Committee continued its discussion of Memo No. 1 and commenced its discussion of Memo No. 2, *Information and Options Regarding the Historic Building Code* (January 6, 1999).

The Committee agreed that Chairperson Rude send a letter to Governor Thompson urging him to allocate funding as part of his biennial budget proposal to support the efforts of Dr. Robert Falk, a research engineer with the U.S. Department of Agriculture, Forest Products Laboratory, to address issues regarding the use of recycled lumber as a structural material in new construction. The letter was sent on January 25, 1999.

At the March 30, 1999 meeting, the Committee discussed a number of individual bill drafts that were attached to Memo No. 3, *Proposals for Discussion by the Special Committee* (February 10, 1999). The Special Committee gave instructions to staff for modifications for these bill drafts and by consensus determined whether to include these proposals in the final drafts for approval by mail ballot.

C. STAFF MATERIALS AND OTHER MATERIALS

Appendix 3 lists all of the materials received by the Special Committee on the Historic Building Code. In addition to these listed materials, Legislative Council Staff prepared numerous bill drafts for the Special Committee and a summary of each of the Special Committee meetings. The following document, prepared by the Legislative Council Staff, may be of particular interest to persons interested in the work of the Committee:

- Staff Brief 98-8, *The Historic Building Code* (October 20, 1998).

PART III

BACKGROUND; DESCRIPTION OF BILLS

This Part of the report provides background information on, and a description of, two of the three bills recommended by the Special Committee on the Historic Building Code and introduced by the Joint Legislative Council in the 1999-2000 Session of the Legislature. The third bill recommended by the Special Committee will be described in a separate report when the bill is introduced.

A. 1999 SENATE BILL 261, RELATING TO EXEMPTING CERTAIN BARNs AND AGRICULTURAL OUTBUILDINGS FROM PROPERTY TAXATION AND PROVIDING A PENALTY

1. Background

a. Current Law

Under current law, barns and agricultural outbuildings are subject to property taxation. The current statutes provide several exemptions for structures or real property that has historical significance or that is owned by a historical society. These current statutes are as follows:

(1) Section 70.11 (4), Stats., exempts from property taxation property owned and used exclusively by incorporated historical societies.

(2) Section 70.11 (13m), Stats., exempts from property taxation archeological sites and certain limited contiguous buffer areas that are protected by a permanent easement to protect the archeological features of the property.

(3) Section 70.11 (29m), Stats., exempts from property taxation property owned or leased by a tax-exempt organization that includes one or more theaters for performing arts and the property includes one or more buildings listed on the National Register of Historic Places.

(4) Section 70.11 (31m), Stats., exempts from property taxation the right-of-way and rolling stock owned by railroad historical societies.

(5) Section 70.11 (34), Stats., exempts from property taxation any real property that is listed on the national or state register of historic places, is owned or leased by a tax-exempt organization, is used for civic, governmental, cultural or educational purposes and is subject to an easement that protects the historic features of the property.

b. Purpose of Creating a Property Tax Exemption for Barns

In general, barns of traditional wood construction were built until approximately 1950. However, it is these traditional wood barns that give the rural landscape its unique appearance and forms the basis of our individual and collective perception and understanding of the rural landscape.

The Special Committee noted that barns which were built prior to 1950 served those agricultural operations well, but often do not fit with modern agricultural practices. Many of the old barns are now used only for storage or are not used at all. However, as long as the barns have some value, they will contribute to the value of the property and are subject to property taxation. The Special Committee believes that even a modest amount of property tax, such as a few hundred dollars per year, is a burden sufficient that a farmer may legitimately prefer to remove the barn rather than continue to pay the property taxes on it. Many of these barns are burned down for practice by volunteer fire departments.

2. Description of Bill

This bill creates a property tax exemption for certain barns and other types of agricultural outbuildings. The property tax exemption applies only to the barn or agricultural outbuilding, and not to the land where the building is located.

The owner of the barn or agricultural outbuilding must submit an affidavit to the assessor to request the property tax exemption. The owner must attest in the affidavit that the barn or outbuilding was constructed prior to 1950 and that the barn or outbuilding meets eligibility requirements of the statute. The barn or outbuilding must be either used for an agricultural purpose, unused or used for a nonagricultural commercial purpose that generates less than \$2,000 in gross revenue annually. It is not necessary for the barn to be located in an area that is zoned for agriculture or even that is predominately agricultural. The State Historical Society is directed to promulgate criteria to be used by the assessor in determining eligibility. These criteria will specify the age, condition, qualities, significance and contribution to the rural landscape that is necessary in order for a barn or an agricultural outbuilding to qualify for the property tax exemption. The Special Committee expects that these criteria will be clear and objective and will be easy for assessors to use.

The Special Committee expects that this property tax exemption will encourage the preservation of barns that are now in residential, commercial or manufacturing areas. The requirements related to the use of the barn or outbuilding will assure that the property tax exemption is not available for barns that have been converted to other productive uses, such as residences or retail establishments.

The Special Committee does not have information on the number of barns that may be affected by this bill or the value that property tax assessors apply to those barns. The Special Committee believes that the property tax revenues produced by these barns is modest from the perspective of the local unit of government but will make a substantial difference to the property owner.

The bill must be referred to the Joint Survey Committee on Tax Exemptions.

B. SENATE JOINT RESOLUTION 23, RELATING TO MEMORIALIZING THE U.S. CONGRESS TO PROVIDE FUNDING FOR RESEARCH ON RECYCLED LUMBER BY THE FOREST PRODUCTS LABORATORY OF THE U.S. DEPARTMENT OF AGRICULTURE FOREST SERVICE

1. Background

Dr. Robert Falk of the U.S. Forest Products Laboratory in Madison is working to address technical issues regarding used lumber as a structural material in new construction. Dr. Falk states that the primary barrier to reuse of these materials for structural purposes is that standards must be developed so that lumber can be inspected and stamped to indicate its grade. Grading will allow these materials to be used to meet requirements specified by the architect or engineer for new construction.

Dr. Falk's effort involves removing timbers from older buildings and testing them to determine the structural qualities of the timber, including such factors as damage to the timber while installing it and removing it. This program is currently not funded at a sufficient level to provide comprehensive results within a reasonable period of time. Even if the project is funded, the information provided by Dr. Falk is only the first step in a process which then requires approval of the data he develops by the American Softwood Lumber Standards Committee, which publishes national grading rules, which then must be adopted by regional lumber grading agencies.

2. Description of Joint Resolution

The joint resolution provides information regarding the availability of used lumber and briefly describes how the work of the Forest Products Laboratory will lead to grading standards for used lumber and the increased potential to incorporate used lumber into new construction. The joint resolution requests Congress to fully fund this research.

MCP:AS:tlu:rv:ksm;wu:ksm

APPENDIX 1

JOINT LEGISLATIVE COUNCIL

s. 13.81, Stats.

OFFICERS

Cochairperson

FRED A. RISSE
Senate President
5008 Risser Road
Madison 53705-1365

Cochairperson

CAROL KELSO
Assembly Representative
416 East Le Capitaine Circle
Green Bay 54302-5153

SENATORS

BRIAN BURKE
2029 North 51st Street
Milwaukee 53208-1747

GARY R. GEORGE
1100 West Wells St., #1711
Milwaukee 53233-2326

CHARLES J. CHVALA
1 Coach House Drive
Madison 53714-2718

RICHARD GROBSCHMIDT
912 Lake Drive
South Milwaukee 53172-1736

ROBERT L. COWLES
300 W. Saint Joseph St., #23
Green Bay 54301-2048

JUDITH ROBSON
2411 East Ridge Road
Beloit 53511-3922

MICHAEL G. ELLIS
1752 County Road GG
Neenah 54956-9730

PEGGY ROSENZWEIG
6236 Upper Parkway North
Wauwatosa 53213-2430

JON ERPENBACH
2385 Branch Street
Middleton 53562-2808

DAVID ZIEN
1716 63rd Street
Eau Claire 54703-6857

REPRESENTATIVES

PETER BOCK
4710 West Bluemound Road
Milwaukee 53208-3648

SCOTT R. JENSEN
850 South Springdale Road
Waukesha 53186-1402

STEVEN FOTI
1117 Dickens Drive
Oconomowoc 53066-4316

SHIRLEY KRUG
6105 West Hope Avenue
Milwaukee 53216-1226

STEPHEN J. FREESE
310 East North Street
Dodgeville 53533-1200

MARLIN D. SCHNEIDER
3820 Southbrook Lane
Wisconsin Rapids 54494-7548

JOHN GARD
481 Aubin St., PO Box 119
Peshtigo 54157-0119

LORRAINE M. SERATTI
HC-2, Box 558
Florence 54121-9620

GREGORY HUBER
406 South 9th Avenue
Wausau 54401-4541

JEFF STONE
7424 West Forest Home Ave.
Greenfield 53220-3358

**David J. Stute, Director, Legislative Council Staff
1 East Main Street, Suite 401, P.O. Box 2536, Madison, Wisconsin 53701-2536**

APPENDIX 2

**HISTORIC BUILDING CODE,
SPECIAL COMMITTEE ON THE**

OFFICERS

Chairperson

BRIAN D. RUDE
Senator
307 Babcock Street
Coon Valley 54623-9801

Secretary

LEON YOUNG ⁽¹⁾
Representative
2351 North Richards Street
Milwaukee 53212-3321

Vice Chairperson

STEPHEN J. FREESE
Representative
310 East North Street
Dodgeville 53533-1200

SENATOR

BRIAN BURKE
2029 North 51st Street
Milwaukee 53208-1747

REPRESENTATIVES

JEFFREY PLALE
1404-18th Avenue
South Milwaukee 53172-1435

MARTIN REYNOLDS ⁽²⁾
219 West 2nd Street North
Ladysmith 54848-1399

PUBLIC MEMBERS

JULI AULIK
Chair, Public Policy Committee
WI Trust for Historic Preservation
2646 Mason Street
Madison 53705-3710

A. WILLIAM HUELSMAN
Developer
235 West Broadway, Suite 40
Waukesha 53186-4826

BRIAN PIONKE
Historic Preservation Officer
City of Milwaukee
809 North Broadway, 3rd Floor
Milwaukee 53202-3617

OSCAR C. BOLDT
Chairman
Boldt Group
P.O. Box 373
Appleton 54912-0373

ROBERT LEMKE
Executive Vice President, Firststar
Community Investment Corp.
5526 West Capitol Drive
Milwaukee 53216

LARRY A. REED
Retired Local Preservation Coord.
State Historical Society
12035 West State Road 59
Evansville 53536

THOMAS BULLERMANN
Alderman, City of New Berlin
14302 West Kostner Lane
New Berlin 53151-1680

SUZAN MACKENZIE-SMITH
Preservation Consultant
Designer's Outlet
308 West Main Street
Ashland 54806-1639

VAL SCHUTE
Architect
River Architects
125 North 4th Street
LaCrosse 54601-3262

NEIL CAMERON
Chief, Appleton Fire Department
700 North Drew Street
Appleton 54911-5000

GEORGE L. N. MEYER, JR.
Preservationist
312 East Buffalo St., #55
Milwaukee 53202-5820

DAVID VOS
Administrator, Architecture and
Design Department
Alexander Company
660 West Washington Avenue
Madison 53703-4703

STUDY ASSIGNMENT: The Committee is directed to study: (1) the Wisconsin Historic Building Code and its administration to ensure that the Code effectively facilitates practical, cost-effective and safe historic rehabilitation projects; and (2) related issues. The Special Committee shall report its recommendations to the Joint Legislative Council by May 1, 1999. [Based on a May 19, 1998 letter from Juli Aulik, on behalf of the Public Policy Committee of the Wisconsin Trust for Historic Preservation.]

Established and Chairperson appointed by a June 24, 1998 mail ballot; members appointed by an August 21, 1998 mail ballot.

19 MEMBERS: 2 Senators; 5 Representatives; and 12 Public Members.

LEGISLATIVE COUNCIL STAFF: Mark Patronsky, Senior Staff Attorney; Anne Sappenfield, Staff Attorney; and Kelly Mautz, Administrative Staff.

(1) Appointed Secretary by a September 4, 1998 mail ballot to replace Sen. Brian Burke, who declined the office.

(2) Appointed to the Committee by a December 10, 1998 mail ballot.

APPENDIX 3

COMMITTEE MATERIALS

Staff Materials

1. Staff Brief 98-8, *The Historic Building Code* (October 20, 1998).
2. Memo No. 1, *Proposals to Enhance the Historic Building Code Which Could Be Considered by the Special Committee* (November 18, 1998).
3. Memo No. 2, *Information and Options Regarding the Historic Building Code* (January 6, 1999).
4. Memo No. 3, *Proposals for Discussion by the Special Committee* (February 10, 1999).
5. Memo No. 4, *Additional Bill Draft and Amendments* (March 29, 1999).
6. Letter to Governor Tommy G. Thompson (January 25, 1999).
7. Letter to Ms. Brenda Blanchard, Secretary, Department of Commerce (April 21, 1999).
8. Letter to Representative Thomas W. Ryder (April 21, 1999).
9. Letter to Governor George E. Ryan, State of Illinois (April 21, 1999).
10. Letter to Ms. Marlene Cummings, Secretary, Department of Regulation and Licensing (April 21, 1999).

Other Materials

1. Publication, *Preservation Information*, National Trust for Historic Preservation (undated).
2. Handout, *Chapter Comm 70 -- Historic Building Code, Background Information*, submitted by Ron Buchholz, Deputy Administrator, Division of Safety and Buildings, Department of Commerce (October 8, 1998).
3. Proposal by Dr. Robert Falk, U.S. Forest Products Laboratory, to the U.S. Department of Housing and Urban Development, regarding the marketability of recycled lumber.
4. Handout, *Wisconsin Barn Preservation Program*, University of Wisconsin (UW)-Extension, Local Government Center (January 7, 1999).
5. Handout, *ADA/Fair Housing and Archaic Material Fire Rating Issues*, submitted by Department of Commerce (January 13, 1999).

6. Pamphlet, *Barns N.O.W! (Network of Wisconsin)* (undated).

7. Handout, *Considerations for the Special Committee on the Historic Building Code*, submitted by Charles S. Law, Ph.D., Community Planning and Design Specialist, UW-Extension (January 13, 1999).

8. Handout, *Increasing the Marketability of Lumber Recycled from Deconstructed Buildings* (February 6, 1998).